

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 BECKLEY DIVISION

4 DAVID M. DAUGHERTY,

5 Plaintiff,

CIVIL ACTION

6 vs.

7 FILE NO. 5:14-24506

8 EQUIFAX INFORMATION SERVICES,

9 LLC, and OCWEN LOAN

10 SERVICING, INC.,

11 Defendants.

12
13 TELEPHONIC 30(b)(6) DEPOSITION OF
14 EQUIFAX INFORMATION SERVICES, LLC
15 THROUGH LATONYA MUNSON

16
17 Thursday, May 12, 2016

18 2:21 p.m.

19 1180 Peachtree Street

20 Atlanta, Georgia

21 Renda K. Cornick, RPR, CCR-B-909

22
23 Job no. 107517
24
25

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2 see that?

3 A. No. Just bear with me a moment while I
4 gather that document.

5 Could you repeat your question.

6 MS. MANNING: Let's read it back.

7 (The record was read by the reporter.)

8 THE WITNESS: Yes. I do see the document
9 indicates that the Litton Mortgage Service Center
10 Account No. 1290 DLA was 10 of 2011 and the date
11 closed was 11 of 2011.

12 Q. (By Mr. Manning) So you don't know if
13 that's accurate or not, right?

14 MR. LOVE: Object to the form.

15 THE WITNESS: No. I don't know whether or
16 not that information is accurate or not. And I
17 don't recall the nature of the dispute in regards
18 to that item and whether it was disputed as
19 inaccurate or not.

20 Q. (By Mr. Manning) So let's just make sure
21 we are talking with the same terminology. You use the
22 word furnisher. That's what Ocwen is in relation to
23 its role to Equifax. It furnishes on a monthly basis
24 information about the account that it has with
25 Mr. Daugherty, correct?

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2 A. Ocwen is a data furnisher as I understand.
3 They are a member of Equifax's credit reporting
4 system. So they furnish information to Equifax. I
5 don't know -- whether or not Ocwen reports on a
6 monthly basis or 30-, 60-, or 90-day basis or not.

7 Q. Then when it receives that data from
8 Ocwen, it is in the form of electronic data that
9 Equifax has to load into its system, right?

10 A. Yes.

11 Q. And there is a group of people at Equifax
12 that does that process of loading the data so that it
13 is intended to accurately reflect on the credit
14 report, right?

15 MR. LOVE: Object to the form.

16 THE WITNESS: Could you rephrase your
17 question?

18 Q. (By Mr. Manning) Right. When Ocwen
19 furnishes data, Equifax receives it and there is a
20 group of people at Equifax that are responsible for
21 loading that information to ensure that it is
22 accurately loaded into Equifax's system.

23 MR. LOVE: Object to the form.

24 THE WITNESS: Yes. It is my understanding
25 that Equifax does receive information from data

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2 furnishes electronically and that information is
3 uploaded into our database. It goes through a
4 quality process.

5 Q. (By Mr. Manning) Are there written
6 policies and procedures in training manuals regarding
7 that process?

8 A. I don't know.

9 Q. Do you know whether you identified and
10 produced them in this case?

11 MR. LOVE: Object to the form.

12 THE WITNESS: No. I don't recall
13 producing any of those manuals because I don't
14 know whether or not they exist.

15 Q. (By Mr. Manning) So let's go back to
16 Exhibit 1 where we have the ACDVs. You have
17 identified there are two disputes listed on those.
18 They each have the same account number and the same
19 borrower, right?

20 A. Yes. They do show that they have the same
21 account number and the same consumer ID information.

22 Q. And you haven't reviewed the data that
23 Ocwen furnished in order to determine whether these
24 ACDVs accurately reflect the information Ocwen was
25 providing, have you?

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2 A. No, I have not.

3 Q. So you don't know if they are accurate or
4 not.

5 A. Well, I mean, as it relates to these
6 ACDVs, these are the ACDVs where the consumer
7 contacted Equifax and had a concern with the
8 information that was being reported on the credit
9 files so therefore Equifax started a reinvestigation
10 of the concerns and contacted Ocwen to determine
11 whether or not the information was being reported
12 accurately on our credit file.

13 Q. Right. And so the way Equifax prepares --
14 this is the process I am trying to understand. The
15 way Equifax prepares Exhibit 1, these two ACDVs, is by
16 going into Equifax's system and pulling the
17 information about the trade lines it is reporting,
18 right?

19 A. Yes. Equifax will review the information
20 as far as a dispute a consumer has and start a
21 reinvestigation of the item if we are unable to make
22 some type of update to the file based upon its own
23 policies and procedures. And then we would start an
24 ACDV and send that information electronically to the
25 furnisher, in this case Ocwen, and ask that Ocwen

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 2 of the ACDVs, in some instances, I believe,
 3 updating information, verifying or asking that
 4 Equifax modify certain information. We were not
 5 advised to delete the information in the credit
 6 file.
 7 Q. (By Mr. Manning) Have you seen any of the
 8 ACDV responses from Ocwen for Mr. Daugherty's account?
 9 A. Yes, I have.
 10 Q. Are you aware that Ocwen repeatedly
 11 responded to the ACDVs showing him past due to correct
 12 it, to show current, but Equifax failed to correct it?
 13 MR. LOVE: Object to the form.
 14 MR. YOUNG: Objection. I think you are
 15 misstating the evidence.
 16 MR. MANNING: The record will speak for
 17 itself.
 18 Q. (By Mr. Manning) You can answer.
 19 A. I don't agree with that. I think that
 20 the -- based upon what we reviewed today, the ACDVs we
 21 received two different --
 22 MR. LOVE: Did we lose somebody?
 23 MR. MANNING: I am here. Jason is here.
 24 Ralph?
 25 Let's let him call back in.

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 2 Q. Okay. Well, our expert witness disagrees
 3 with you.
 4 Can you identify where on here Ocwen
 5 provided a response to an ACDV request from Equifax?
 6 A. Sure. On Exhibit 1, Ocwen was contacted
 7 and the responder's name, Raj Kumar, with a
 8 responder's phone number, date of the response, the
 9 method or response code which verifies correct as
 10 reported, is contained within --
 11 Q. Let me stop you there. I don't see that.
 12 Where is that?
 13 A. I will be more than happy to point that
 14 out to you. It is under the trade line information,
 15 under the control number and --
 16 Q. Are you on the second ACDV?
 17 A. I am on the first one.
 18 Q. My order is off. Okay.
 19 MR. YOUNG: Might I suggest that the
 20 witness give us the last four digits of the
 21 control number so we are all on the same number.
 22 MR. MANNING: Let's use the Bates number.
 23 THE WITNESS: I am looking at Bates 34,
 24 35, 30, and 31.
 25 Q. (By Mr. Manning) So on this information,

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 2 (Technical difficulty.)
 3 THE COURT REPORTER: Mr. Manning, while we
 4 have a moment, are you going to want a copy of
 5 the transcript?
 6 MR. MANNING: E-trans.
 7 THE COURT REPORTER: When do you want
 8 delivery of your copy?
 9 MR. MANNING: Tomorrow.
 10 (Ralph Young rejoins.)
 11 Q. (By Mr. Manning) We are back on the
 12 record, Ms. Munson.
 13 I am asking you about whether you can
 14 identify a single ACDV response from Ocwen as you sit
 15 here today.
 16 MR. LOVE: Object to the form.
 17 THE WITNESS: We had several that were
 18 provided within the Exhibits 1 through 14.
 19 Q. (By Mr. Manning) Let's make sure that is
 20 clear on the record. These are not responses from
 21 Ocwen. These are Equifax's ACDV requests for
 22 verification that went to Ocwen, correct?
 23 A. No. This captures Equifax's
 24 reinvestigation that was sent to Ocwen and Ocwen's
 25 response to the ACDV, excuse me, ACDV.

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 2 on this sheet, where on this sheet does it contain the
 3 information that Ocwen responded with to Equifax?
 4 MR. YOUNG: Are we looking at sheet 34,
 5 Bates 34, counsel?
 6 MR. MANNING: Yes.
 7 MR. YOUNG: Thank you.
 8 THE WITNESS: So if you look under the
 9 control number towards the middle of those
 10 fields, rather, the grantor name, Ocwen Loan
 11 Servicing, and followed by that is the responder
 12 name, and followed by that is the responder's
 13 phone number and response code from the
 14 responder.
 15 Q. (By Mr. Manning) So make sure I am on the
 16 same page as you. If you look toward the bottom of
 17 Bates 34, it has an account status and it is your
 18 testimony that Ocwen responded to this ACDV with
 19 current account under account status as well as
 20 current account under payment rating; is that right?
 21 MR. YOUNG: Objection. I believe you are
 22 misstating the testimony. The witness testified
 23 as to the response code, verified as reported.
 24 She hasn't testified to account status or payment
 25 rating.

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MR. MANNING: That's what I am asking her about. Let's let the witness answer.

MR. YOUNG: You are misstating her testimony.

MR. MANNING: It is a question.

MR. YOUNG: Go ahead. I withdraw the objection.

THE WITNESS: I was referring to the grantor name, the responder's name, response date, and the response code verified correct as reported.

Q. (By Mr. Manning) See the bottom of the page, account status?

A. Yes, I do.

Q. Is it your testimony that Ocwen responded to the account status and payment rating with the statement current account?

A. No. It is my testimony that Ocwen responded and did not advise Equifax to modify any information in the account status field. And they verified the account correct as reported.

Q. Is it your testimony that because Equifax was reporting this account for this ACDV as current in account status and payment rating that Ocwen verified

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it to be accurate?

A. I am stating that Equifax contacted Ocwen via the ACDV process and the response was that the account was verified correct as reported in regards to ACDV EIS No. 34.

Q. And I am asking you what that means because here -- I think we are reading the same page -- the account status and payment rating are listed as current, right?

A. Yes. When the ACDV was sent out to Ocwen, the account status showed current account. However, if Ocwen wanted to modify that information there would be another account status underneath that and so Ocwen verified the account as correct as reported when it checked off the box in the response code verified as reported.

Q. Okay. So by checking the box verified as reported here, Ocwen confirmed that the account was current, right?

A. Yes.

Q. So this document -- I think Mr. Young asked you about this -- this is not a document that came from Equifax, right? This is something -- I am sorry. It didn't come from Ocwen, it is something

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generated from Equifax itself?

A. It is my understanding that this is Equifax's memorialization of the ACDV process and so that that process because it is electronic, this is how Equifax captures Equifax -- sent out the ACDV and then how the response was received from the furnisher.

Q. Which means that there is some person -- not you -- at Equifax that was receiving Ocwen's response to the ACDV and interpreting it and determining what to report on this form, right?

A. No. I don't know if this was handled through an automated process completely or whether or not it was handled by a live agent. However, it is my understanding that there during the ACDV process Ocwen is the one who has completed the verification and determined what information should be verified, modified, deleted, or deleted as fraud.

In this case, Ocwen advised Equifax that the information was verified as reported.

Q. And verified as reported pertains to the specific disputes that are identified by Equifax on the dispute at the top of the page, right?

A. Yes. That is correct. My understanding that they verified the dispute that was initiated

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during the reinvestigation.

Q. And it is accurate that this was an account -- actually, I should ask whether you know. Do you know whether it is accurate that Mr. Daugherty, in fact, had this account with Ocwen and that he was current? Do you know?

A. Could you rephrase your question.

Q. There are two dispute codes on EIS 34 and it is your testimony that Ocwen did what it was supposed to by responding to the specific disputes identified and you don't -- do you know whether that is accurate?

MR. LOVE: Object to the form.

THE WITNESS: I still don't understand the question you are asking me.

Q. (By Mr. Manning) So you don't know whether this form was generated by a human being or by a computer, right?

A. No. I don't know whether or not the information processed here as part of the verification was processed through an agent or an electronic means. Based upon looking at the ACDV, I do not know. But that is something, you know, that could be determined.

Q. Further discovery, you just don't know